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EXAMINER

SOROUGH, LAYLA

ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DETAILED ACTION

The response filed April 10, 2007 presents remarks and arguments submitted to the office action mailed January 11, 2008 is acknowledged.

Applicant's arguments over the 35 U.S.C. 102(b) rejection of claims 1, 3-8, 10 and 11 over Farrell et al. (US 6,630,432) or Crookham et al. (US 6,576,228) is persuasive in part due to amendments made to the claims. Therefore, the rejection is herewith withdrawn.

Applicant's arguments over the 35 U.S.C. 103(a) rejection of claims 2, 9 and 12 over Farrell et al. (US 6,630,432) is not persuasive. Therefore, the rejection is herewith maintained.

Applicant's arguments over the 35 U.S.C. 103(a) rejection of claims 2, and 12 over Crookham et al. (US 6,576,228) is not persuasive. Therefore, the rejection is herewith maintained.

In view of applicants amendments the following new 35 U.S.C. 103(a) rejection is made:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrell et al. (US 6,630,432).

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Farrell et al. teach soap bars comprising 7-20% of water; 40-95% of C₁₂-C₂₄ fatty acid neutralized by an inorganic base such as NaOH (i.e. fatty acid soap); 0-15% of monoglyceride (e.g. glycerin monostearate or monolaurate); and 0-15% of free fatty acid. See Abstract; col. 2, lines 28-54; col. 3, lines 51-65; col. 4, lines 25-51. The soap bars of Farrell et al. contain additional functional ingredients such as alpha-hydroxy acid salts, which possess humectant properties. See col. 1, lines 15-22; col. 4, lines 6-22. The bars of Farrell et al. are hydrated with water to form a cleansing composition, which usually takes place at room temperature.

With respect to Claim 2, Farrell et al. do not teach the claimed concentration of the neutralized fatty acid. However, determination of optimal or workable concentration of the neutralized fatty acid by routine experimentation is obvious absent showing of criticality of the claimed concentration. One having ordinary skill in the art would have been motivated to do this to obtain the desired cleansing and lathering properties of the composition. With respect to Claim 9, the bars of Farrell et al. are prepared by heating the ingredients until molten at about 80⁰ C and then cooling, milling and extruding the resultant soap. See col. 3, lines 5-36. The reference does not explicitly teach the claimed cooling temperature of below 40⁰ C. However, determination of optimal or workable cooling temperature by routine experimentation is obvious absent showing of criticality of the claimed parameter. One having ordinary skill in the art would have been motivated to do this to obtain the desired consistency of the composition suitable for further milling and extruding. With respect to Claims 12,

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the reference does not explicitly teach the claimed ratio of the composition to the aqueous base. However, determination of optimal or workable ratio by routine experimentation is obvious absent showing of criticality of the claimed ratio. One having ordinary skill in the art would have been motivated to do this to obtain the desired cleansing and lathering properties of the composition.

Claims 1-8, 10 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crookham et al. (US 6,576,228).

Crookham et al. teach personal wash compositions in the form of bars which deposit high levels of sunscreens on the skin, such compositions containing 1-15% of water; 20-85% of a fatty acid soap and 0-15% of free fatty acid; 0-40% of glycerin monostearate; and other cosmetic additives. See Abstract; col. 3, lines 20-52; col. 5, lines 10-20; col. 8, lines 54-67; col. 9, lines 55-58; col. 10, lines 46-48. The bars of Crookham et al. are hydrated with water to form a wash composition, which usually takes place at room temperature. More specifically, the prior art teaches the same hydrating method as claimed to form a liquid wash, hence, a cream or lotion wash will be formed upon mixing an aqueous base at a temperature of below 80 degrees C.

With respect to Claim 2, Crookham et al. do not teach the claimed concentration of the neutralized fatty acid. However, determination of optimal or workable concentration of the neutralized fatty acid by routine experimentation is obvious absent showing of criticality of the claimed concentration. One having ordinary skill in the art would have been motivated to do this to obtain the desired cleansing and lathering properties of the composition. With respect to Claims 12,

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the reference does not explicitly teach the claimed ratio of the composition to the aqueous base. However, determination of optimal or workable ratio by routine experimentation is obvious absent showing of criticality of the claimed ratio. One having ordinary skill in the art would have been motivated to do this to obtain the desired cleansing and lathering properties of the composition.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

Response to Arguments

Applicant's arguments filed on April 24, 2008 have been considered but are not persuasive.

Applicant argues the claimed invention is drawn to a “substantially anhydrous cosmetic composition that is suitable for forming a skin cream or lotion when it is hydrated and mixed with water.” Examiner states that the bar soap of both Farrell et al. and Crookham et al. read on the limitation because the amount water claimed overlaps with the claimed range of water. Also the argument that “the composition that is suitable for forming a skin cream or lotion when it is hydrated and mixed with water” is not persuasive because Crookham et al. teaches the compositions are hydrated with water to form a wash composition, which usually takes place at room temperature. More specifically, the prior art teaches the same hydrating method as claimed, hence, a cream or lotion wash will be formed upon mixing an aqueous base at a temperature of

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below 80 degrees C.

In response, to Applicants argument that the amount of neutralized fatty acid relevant to the sap bars are much higher than that claimed is not persuasive. Examiner respectfully reiterates, the determination of optimal or workable concentration of the neutralized fatty acid by routine experimentation is obvious absent showing of criticality of the claimed concentration. One having ordinary skill in the art would have been motivated to do this to obtain the desired cleansing and lathering properties of the composition.

Applicant argues the neutralized fatty acids of Crookham are 2.5 times higher than the maximum level used by applicant. Examiner states that Crookham teaches 20-85% fatty acid soap while the claimed invention is drawn to 2 to 15 wt% fatty acid soaps. Examiners contention is that the minimum amount of fatty acid soap disclosed by Crookham is only 5% more than that is claimed.

The arguments are not persuasive and the rejection is made **FINAL**.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed

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within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

No Claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Layla Soroush whose telephone number is (571)272-5008. The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/SREENI PADMANABHAN/

Supervisory Patent Examiner, Art Unit 1617